

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In Re the Dependency of:)	
)	
D.L.F.)	No. 55757-2-I and consolidated
dob: 03/27/96)	case No. 55759-9-I
)	
D.R.F.)	DIVISION ONE
dob: 12/15/92)	UNPUBLISHED OPINION
)	
<u>Minor Children.</u>)	
)	
STATE OF WASHINGTON,)	
DEPARTMENT OF SOCIAL AND)	
HEALTH SERVICES,)	
)	
Respondent,)	
)	
v.)	
)	
TANYA FRITZ,)	FILED: August 21, 2006
)	
Appellant.)	

GROSSE, J. – Pursuant to RCW 13.34.180(1)(e), where there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future, it necessarily follows that continuation of the parent and child relationship diminishes the child’s prospects for early integration into a permanent home. Because it was uncontested that there was little likelihood that conditions would be remedied so that D.R.F. and D.L.F. could be returned to their mother in the near future, it necessarily followed that continuation of the parent and child relationship diminished D.R.F.’s and D.L.F.’s prospects for early

integration into a permanent home. We affirm the trial court's order terminating Tanya Fritz's parental rights.

FACTS

Appellant Tanya Fritz had two sons with Charles Fritz, D.R.F. (born on 12/15/1992) and D.L.F. (born on 3/27/1996). Tanya was married to Charles when the children were born, but the two are now divorced. The two boys were found dependent pursuant to agreed orders of dependency on March 18, 1998. At the dependency hearing, the parties stipulated the mother had a history of drug and alcohol abuse that interfered with her ability to parent the children and the father had failed to provide a barrier of safety for the children.

The boys were returned to Charles' care in May 1998, removed again in August 1998, and then returned once more to Charles' home in October 1999. The boys lived with Charles in Minnesota until December 2001. They were then removed again after Charles was incarcerated after committing an act of domestic violence against his girlfriend. The boys were returned to Washington to live with Tanya. During the months of February and March 2003, Tanya's test results indicated possible methamphetamine use and the boys were removed from her care on March 20, 2003, and placed in foster care. On September 16, 2003, the Department of Social and Health Services (DSHS) filed a petition to terminate both parents' rights to the boys.

A hearing was held in July 2004. After hearing several days of testimony, the trial court reluctantly decided to continue the hearing for two months so that

a parenting evaluation could be performed on Charles. The trial court stated that it believed that due to Tanya's continuing problems with drugs and alcohol, she could not handle the stress of raising D.L.F. and D.R.F. in addition to her younger son from a subsequent relationship. However, the court stated, "But I do believe it's in the children's best interests, if possible, to maintain a relationship with [Tanya]. And if [Charles] is the custodial parent, in my view, that can be accomplished."

During the two month recess, Tanya suffered a severe heart attack and fell into a coma. Tanya awoke from her coma and went to reside with her sister. Before trial reconvened, Tanya filed a motion to have the two boys placed with her sister and her brother-in-law, Tamara and Larry Tyler.

The trial reconvened on September 23, 2004. The court proceeded to hear testimony on the termination but then recessed until October 25, 2004 so Charles could respond to DSHS's study of his home. When the trial reconvened, it also heard testimony regarding Tanya's motion to have the children placed with the Tylers. Tanya presented a study of the Tylers' home, prepared by a social worker in support of her motion.

Ultimately the trial court, having found the statutory requirements for termination had been met, decided it was in the best interests of the children to terminate their legal relationship with their parents regardless of what the eventual placement decision would be. The trial court stated:

I do think, though, that it has gone on too long, that is, the termination issues, have gone on too long. And these children need to know, regardless of the uncertainty as to where they will

end up permanently, these children need to know that they are not going to be returning to their parents' homes.

The trial court also concluded that it could not place the children with the Tylers at that point in time due to its concern over Larry Tyler's past alcohol related criminal history. It also ordered DSHS to conduct its own home study of the Tylers and set a hearing on the placement issue for December 10, 2004.

On January 5, 2005, the trial court entered written findings of fact and conclusions of law terminating Tanya's parental rights to D.L.F. and D.R.F. Tanya now appeals.

ANALYSIS

The elements necessary to establish a termination are listed in RCW 13.34.180(1)(a-f) and must be proven by clear, cogent and convincing evidence.¹ Under RCW 13.34.190(2), termination must also be shown by a preponderance of the evidence to be in the best interests of the child.² On appeal, Tanya challenges the court's finding, pursuant to RCW 13.34.180(1)(f), "[t]hat continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home." She also contests the trial court erred in finding termination to be in the best interests of the children.

RCW 13.34.180(1)(f) "is mainly concerned with the continued effect of the legal relationship between parent and child, as an obstacle to adoption."³

¹ In re K.R., 128 Wn.2d 129, 141, 904 P.2d 1132 (1995).

² In re the Dependency of A.V.D., 62 Wn. App. 562, 571, 815 P.2d 277 (1991).

³ In re Dependency of A.C., 123 Wn. App. 244, 250, 98 P.3d 89

Furthermore, where it is proven pursuant to RCW 13.34.180(1)(e) that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future, it “necessarily follows” that continuation of the parent and child relationship diminishes the child’s prospects for early integration into a permanent home.⁴

Here, it is unchallenged that “[t]here is little likelihood that conditions will be remedied so that the boys can be returned to the parents within the near future.” As the trial court stated in its findings, “[Tanya] has acknowledged that she was not in a position to be the boys’ caretaker at the time of trial or in their foreseeable future.” As such, it necessarily follows that the continuation of the children’s legal relationship with Tanya diminished their prospects for early integration into a permanent home.

Tanya argues the Tylers were a permanent placement option that did not depend upon termination; however, she also asserts that she would have terminated her parental rights if the court ultimately decided the Tylers were a suitable placement. In order for the children to have permanence, Tanya’s parental rights would have to be terminated in any instance, whether it happened before or after a suitable placement was found and regardless of whether their placement was with the Tylers. This is because, as the trial court found, there was no realistic expectation that the children could be returned to

(2004)(emphasis in original).

⁴ In re J.C., 130 Wn.2d 418, 924 P.2d 21 (1996); see also In re Dependency of T.R., 108 Wn. App. 149, 166, 29 P.3d 1275 (2001).

their mother's home. Therefore, the trial court appropriately determined that terminating Tanya's parental rights was a step towards permanence.

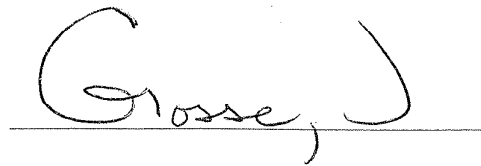
In concluding that termination was in the children's best interests, the trial court relied on substantial testimony from the children's therapists and their advocate showing the emotional difficulties the children had endured due to the uncertainty created by their six years of dependency. D.R.F.'s therapist Scott Hunt testified that when D.R.F. was falsely informed that his case was resolved and that his parents had relinquished their rights there was a "big change in his mood." D.R.F. "became more compliant with rules at home, was very excited that he was going to be living with the foster family and that it was a guardianship situation." He was also doing better at school. Later, when D.R.F. was notified that the case was still pending and that his parents had not yet relinquished their rights "his mood changed in the other direction." D.R.F. "became much more depressed" was "much less compliant than he'd ever been" and "acknowledged he was starting to have some thoughts of hurting himself." Hunt's testimony was corroborated by the testimony of the children's foster parent Linda Weeks.

D.L.F.'s therapist, Linda Lorraina, similarly testified that when D.L.F. was falsely told by Charles that he was going to agree for D.L.F.'s foster family to formally obtain guardianship, "[D.L.F.] seemed to really calm down and . . . thought that he was being assured that he was going to have a safe place to live." However, "when that didn't happen, that's when the bed wetting again

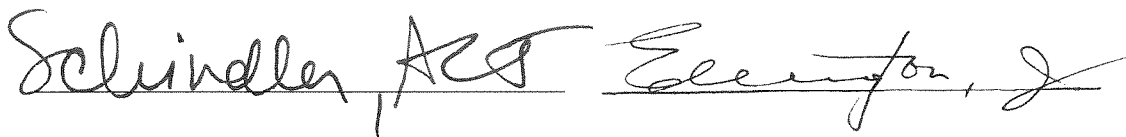
started to happen.” According to Lewis, D.L.F. “seemed to be more anxious and really didn’t know what was going on.”

The children’s advocate and case worker agreed the children urgently needed a permanent home and that it was in the children’s best interests to have their parents’ rights terminated. Arthur Daar, the children’s court appointed special advocate, explained that he thought the situation was “getting critical” for D.R.F. and in his opinion was “almost an emergency.” When pressed to explain Daar testified, “Well, the fact that [D.R.F.’s], you know, potentially suicidal, I think that speaks [for] itself.” The trial court’s conclusion that termination of Tanya’s parental rights was in the children’s best interests was thus based on substantial evidence.

For the above reasons, we affirm the termination order.

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WE CONCUR:

Two handwritten signatures in cursive script, reading "Schindler, ACT" and "Eberington, J", written over horizontal lines.